

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

GERALD D. FIELDS,

Petitioner,

vs.

Civil Action 2:11-CV-431
Judge Sargus
Magistrate Judge King

WARDEN, MARION CORRECTIONAL
INSTITUTION,

Respondent.

ORDER

On February 27, 2012, this Court dismissed the petition for a writ of habeas corpus under 28 U.S.C. §2254, reasoning that the claims asserted in the petition are procedurally defaulted. *Judgment*, Doc. No. 18. This matter is now before the Court on petitioner's notice of appeal from that judgment, *Notice of Appeal*, Doc. No. 19, which the Court receives as including a request for a certificate of appealability. See 28 U.S.C. §2253(c); Rule 22(b), Federal Rules of Appellate Procedure.

When a court dismisses a claim on procedural grounds, a certificate of appealability


should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.

Slack v. McDaniel, 529 U.S. 473, 484 (2000). Thus, there are two components to determining whether a certificate of appealability should issue when a claim is dismissed on procedural grounds: "one directed at the underlying constitutional claims and one directed at the district court's procedural holding." The court may first "resolve the issue whose answer is more apparent from the record and arguments." *Id.*

For the reasons set out in the February 2, 2012 *Report and Recommendation*, Doc. No. 14, and the Court's February 27, 2012 *Order*, Doc. No. 17, the Court concludes that petitioner has failed to establish that "jurists of reason would find it debatable whether the district court was correct in its procedural ruling." See *Slack v. McDaniel*, 529 U.S. at 484.

Accordingly, the Court **DECLINES** to issue a certificate of appealability.

5-1-12
Date



Edmund A. Sargus, Jr.
United States District Judge